

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARRY RAYMOND KLING,

Defendant.

No. CR06-3007-MWB

ORDER

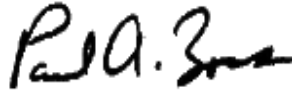
The defendant has filed a motion (Doc. No. 82) for leave to appeal *in forma pauperis*. Although defense counsel makes certain representations in the motion concerning the defendant's financial status, the defendant has failed to submit an affidavit listing his income and assets in detail as required by Federal Rule of Appellate Procedure 24(a)(1), and representing that he is unable to pay the appellate fees or give security therefor. Such an affidavit is a prerequisite for the court to consider the present motion. 28 U.S.C. § 1915(a)(1); Fed. R. App. P. 24(a)(1). If the defendant wishes to pursue his motion, then **by February 22, 2007**, he must submit an affidavit as required. The court reserves ruling on the motion pending receipt of the affidavit.

The defendant also has filed a motion (Doc. No. 83) for appointment of appellate counsel under the Criminal Justice Act of 1964, 18 U.S.C. §§3001-3013 ("CJA"). In direct appeal of a criminal case, trial counsel ordinarily is reappointed automatically for purposes of the appeal. *Eighth Circuit Internal Operating Procedures* II(D)(1). In the present case, however, the defendant's trial counsel was privately retained. As a result, the court will have to rule on the defendant's motion for appointment of CJA counsel. Such a ruling is made by an administrative panel of the appellate court. *Id.* Accordingly,

the Clerk of Court is directed to transmit the motion for appointment of appellate counsel to the Eighth Circuit Court of Appeals for consideration. A copy of this order must accompany the transmittal.

IT IS SO ORDERED.

DATED this 8th day of February, 2007.

A handwritten signature in black ink, appearing to read "Paul A. Zoss", is written over a horizontal line.

PAUL A. ZOSS
MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT